

**Arms Control without Arms
Control:
The Failure of the Biological
Weapons Convention Protocol and a
New Paradigm for Fighting the
Threat of Biological Weapons**

Guy B. Roberts

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Comments pertaining to this paper are invited; please forward to:

Director, USAF Institute for National Security Studies

HQ USAFA/DFES

2354 Fairchild Drive, Suite 5L27

USAF Academy, CO 80840

phone: 719-333-2717

fax: 719-333-2716

email: inss@usafa.edu

Visit the Institute for National Security Studies home page at

<http://www.usafa.edu/inss>

TABLE OF CONTENTS

Foreword	vii
Executive Summary	ix
Introduction: Addressing the Fear of Biological Warfare	1
In the Garden of Good and Evil: Defining the Problem	4
The Nature of Biology	4
And Its Capacity for Good and Evil	10
The Threat of Biological Warfare: The “Poor Man’s Atomic Bomb”	13
The Early History of Biological Warfare	14
The Current Threat: Rogue States	17
The Current Threat: Non-State Actors	22
The Emperor Has No Clothes: The Failure of the “Verification” Protocol at the BWC Review Conference	24
Disarmament Efforts Prior to the BWC	25
Rejection of a “Maginot Treaty”: Why the Proposed “Verification” Protocol Failed	28
The Basis for US Rejection of the Protocol	34
The Futility of Verification	39
A New Paradigm for Stopping BW Programs: The Seamless Web of Multifaceted International Cooperation	45
The National Defense Imperative: First Responders and Bio-Security	49
The Vital Importance of Compliance	
Diplomacy: Enforcing the BWC	52
International Institutions: The Role of the United Nations	54
Other International Government Organizations (IGOs): Cooperative Mechanisms	58
Regional Collective Security Organizations	69
Industry Associations and Other Nongovernmental Organizations	75
Export Controls	79

International Law Enforcement Initiatives	81
Financing the Spread of Bio Terror: Interdiction Initiatives	83
Arms Control without Arms Control: Fitting the Cure to the Disease	85
Notes	89

FOREWORD

We are pleased to publish this forty-ninth volume in the *Occasional Paper* series of the United States Air Force Institute for National Security Studies (INSS). Among the many dimensions of national security that face unprecedented changes and challenges after the end of the Cold War, arms control has been as directly affected as any other dimension. The formal, bilateral, and verification-based arms control that was so central to that former period fits neither the new environment nor the expanded focus beyond the strategic nuclear arena. In this paper, Guy Roberts presents yet another of his insightful explanations and analyses of the adaptations and new directions that are required to give “arms control” continued relevance today and tomorrow. This thorough analysis of the special case of biological warfare controls follows his January 2001 INSS Occasional Paper (#36) *This Arms Control Dog Won’t Hunt: The Proposed Fissile Material Cut-Off Treaty at the Conference on Disarmament* in chronicling both the failure of continuing emphasis on formal Cold War-type arms control products and the enduring centrality of cooperative “arms control” processes in the current national security environment. In Roberts line of argument, arms control is indeed dead, yet “arms control” can and must be reborn in the form of a wide range of integrally linked and multifaceted legal, diplomatic, economic, and military instruments to effectively fight the spread and use of dangerous weapons and systems.

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JAMES M. SMITH
Director

EXECUTIVE SUMMARY

After being terrorized by the October 2001 anthrax attacks in which five people lost their lives, it was anticipated that the United States would support a new protocol touted as a new compliance mechanism for strengthening the Biological Warfare Convention (BWC). However, in December 2001, the United States rejected the protocol as ineffective and fatally flawed. Backed by years of study and test inspections, the United States argued that traditional arms control approaches to biologically based substances can not work because of the dual nature of these substances. Unlike chemical or nuclear weapons, the components of biological warfare are found in nature, in the soil and air. The presence of these organisms in any quantity does not necessarily connote a sinister motive. Absent actual weaponization or compelling evidence of intent, it is virtually impossible to prove a violation of the BWC. Further, any information gains from such measures are more than offset by the risks to sensitive bio-defense programs and confidential and proprietary business information.

Despite the rejection of the protocol, the United States and the rest of the world recognize the tremendous threat biological weapons pose to peace and international security. Biological weapons have been used since antiquity, and efforts to constrain and prohibit them have been undertaken almost as long and with not much success. Nevertheless, the BWC coupled with the 1926 “Gas Protocol” banning the use of bacteriological weapons forms the basis for the prohibitory norm banning the development, production and use of biological weapons. Most of the nations of the world are parties to these treaties. Despite the inability to craft effective verification measures, the prohibitory norm remains strong as evidenced by the fact that no country admits to developing or possessing biological weapons (BW).

Still, there are a number of states and terrorist groups actively seeking to acquire and use these weapons. Russia, one of the BWC depository states, had (and is suspected of continuing to have) the world’s largest offensive BW program, one that is a severe proliferation threat. Iraq and a number of other countries maintain significant programs. Terrorist groups such as Al Queda are known to be attempting to acquire this capability. These countries are also pressuring the developed countries to provide them with the technologies and equipment to develop such programs.

In recognition of the threat, the United States advocated moving beyond signing up to another ineffective arms control agreement and finding a new way to focus on a strengthened international commitment to combat the BW threat in all its forms. Recognizing that international cooperation is key, the United States proposed a number of alternative measures that it considered far more effective. These ranged from national bio-defense preparedness to bilateral efforts of cooperation to multilateral mechanisms for impeding, stopping, and rolling back illicit BW activities. A key element is getting serious about noncompliance and calling those nations who do not live up to their international legal and political obligations to account.

Using the US proposal as a blueprint, the states parties to the BWC adopted a modest work program to strengthen the implementation of and compliance with the legal obligations of the Convention. This is complementary to a new and more effective approach, advocated here, to utilize the numerous multilateral mechanisms and on-going initiatives designed to target a specific aspect of the threat and to the greatest extent possible limit the ability of terrorists and proliferators to acquire a BW capability. These include, but are not limited to, initiatives by international governmental organizations such as the World Health Organization, World Food and Agriculture Organization and World Customs Organization; new initiatives by regional security cooperation organizations such as NATO; international law enforcement cooperative efforts such as the initiatives started by INTERPOL and EUROPOL; the efforts of members of the Australia Group, a voluntary export control organization of like-minded states; and the numerous national and international efforts at tracking and interdicting the financial networks which fund these terrorist or proliferation activities. These multi-faceted initiatives fully support the goals of the BWC and have much more capability of interdicting and stopping those who might try to acquire such weapons.

The time for “better-than-nothing” proposals is over. A united world, acting in concert across a broad front of areas utilizing the full panoply of financial, diplomatic, economic, and military resources at our disposal, with the firm determination to rid the world of these weapons of terror, is our best hope for success. It is only when those that pursue these weapons learn that to do so is a huge miscalculation and that the world is united across this broad

band of international organizations against them will this threat to mankind be eliminated.

